

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

No. D.T.C. 11-16

**PETITION OF RECIPIENTS OF COLLECT CALLS FROM
PRISONERS AT CORRECTIONAL INSTITUTIONS IN MASSACHUSETTS
SEEKING RELIEF FROM
THE UNJUST AND UNREASONABLE COST OF SUCH CALLS**

**RESPONDENT INMATE CALLING SOLUTIONS, LLC's RESPONSE TO
PETITIONERS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

General Objections: Respondent hereby objects to Petitioners requests on the grounds that they are overbroad, vague, overly burdensome, seeking irrelevant, immaterial or inadmissible information or information protected by privilege and/or contain multipart requests in violation of law, rule or regulation. Moreover, throughout the subject period, Respondent provided services for a single, small, county facility representing a miniscule fraction of the MA market and rendering all of its responses in this matter statistically meaningless.

Document Requests:

1. *Any and all documents identified in Petitioners' First Set of Interrogatories.*

Respondent reiterates its General Objections and finds this request to be too vague to be comprehensible. Respondent, contemporaneous with this response, also provided its responses to Petitioner's First Set of Interrogatories.

2. *To the extent that any formal documentation was created in connection to the complaints listed in Interrogatory 16 please provide a copy of that documentation.*

No documents were responsive to this request.

3. *Any and all documents that define your current corporate and security quality goals.*

Respondent reiterates its General Objections and more specifically objects to the phrasing of this Request. To the extent Petitioner seeks Respondents 'corporate goals', such information is strategically sensitive, not relevant to the current proceeding and, frankly, none of Petitioner's business within the scope of this matter. To the extent this Request seeks 'security quality goals', Respondent can't comprehend the meaning of the request.

4. *Any and all documents concerning policies regarding the provision of inmate calling services including issues such as quality, security, network outages, pricing, and dropped calls.*

Respondent reiterates its General Objections and more specifically objects to the use of overly broad terms ‘concerning’, ‘regarding’ and ‘such as’ in reference to the all-encompassing phrase ‘inmate calling services’ which, read together, could be construed to include virtually everything in the company. Attached as Exhibits D-4(a), D-4(b) and D-4(c), respectively, are a sample ‘Service Level Agreement’, ‘ICS Emergency Response Plan’ and ‘ICS Call Completion & Quality Policy’.

5. *Any and all documents concerning the amount of revenues and expenses incurred in relation to each year of each contract identified in response to Interrogatory No. 1. Such documentation would include financial statements, budget performance reports, management report, and any documentation in relation to the payment of site commissions.*

Respondent reiterates its General Objections and further objects to the time-wasting nature of this request. Respondent has already conveyed in other responses that it does not have contract-specific accounting records and, specifically in its response to Interrogatory No. 2, provided the aggregate level of site commissions paid for its contract years. As representative samples only, Respondent has attached, as Exhibit D-5, site commission statements for the months of March and October for each of the subject years.

6. *Any document listing or describing the costs associated with providing ICS to Massachusetts consumers.*

Respondent reiterates its General Objections and further objects to this request in that it’s completely ridiculous. It literally seeks virtually every document for every cost incurred by Respondent in the provisioning of its services nationwide. Respondent operates its business on a consolidated basis and not as a MA-specific cost center and the mountain of documents that this request seeks would not yield any intelligible information regarding the subject matter since the phrase “associated with providing ICS to [MA] consumers” is hopelessly vague and MA represents a trivial component of Respondent’s overall business.

Notwithstanding the foregoing objections, attached as Exhibits D-6(a), D-6(b) and D-6(c), respectively, are copies of all ‘Site Maintenance Invoices’, ‘Telecom Sample

Invoices ‘for March & October of each year, and ‘Call Center Invoice’ samples for October of each year. The latter two categories of costs did not change materially throughout the subject period so production of every document related thereto is an enormous waste of time.

7. *Any document (a) identifying or describing fees charged by your company to consumers of inmate calling services in Massachusetts for establishing, using, maintaining or closing a pre-paid account, (b) listing amounts collected for any such fee or (c) referencing the disposition of such fees once they have been collected.*

Respondent reiterates its General Objections and further objects to the exhaustive and burdensome nature of this request to the extent it seeks to obtain every shred of fee-related documentation at the consumer level that may have been generated over a three+-year timeframe. Notwithstanding the foregoing objection, attached as Exhibit D-7 is the Attachment B page of Respondent’s Hampshire, MA Contract showing, among other things, applicable service fees.

8. *Any and all documents prepared for upper management or a member or members of the Board of Directors that discusses directly or indirectly the performance of your provision of inmate services in Massachusetts. Please include any and all reports that compare such performance with that of your company’s provision of inmate services in other states.*

No such documents exist.

9. *Any and all documentation that shows the overall profitability of your operations in Massachusetts for 2011, 2012, 2013 and for 2014.*

No such documents exist.

10. *Any and all documentation comparing the total amounts of commissions that were paid in Massachusetts in 2011, 2012, 2013 and in 2014.*

No such documents exist.

11. *Any and all documents, reports or analyses that track quality performance by facility, region or state that would cover Massachusetts for the years 2011, 2012, 2013, and 2014. These documents might track things like trouble reports, quantities of dropped calls, network outages, and other related quality assurance issues you might measure or track.*

No such documents exist.

- 12. If you pay sales commissions or other incentives to employees based upon getting new jails and prisons as customers or for renewing and extending existing contracts, please provide any and all documents concerning performance goals and standards that are used to define how sales commissions are earned.*

Sales commissions are earned based on a percentage of net revenue derived from each facility. The percentage has varied over time and may also vary by individual employee but, generally, has averaged around 2%. Respondent has no documents concerning performance goals and/or standards that are used to define how sales commissions are earned for the MA market area. Correspondence between Respondent and its employees regarding compensation are confidential.

- 13. Any and all documents including cost studies, budget analysis or management reports that calculate your cost of and/or revenue derived from providing calling services in Massachusetts from 2011 to the present.*

Respondent reiterates its General Objections. Respondent already provided revenue data for the subject period and has stated that it does not have cost studies or analysis for the state of MA. For what little value it adds, attached as Exhibit D-13 is a report of MA Revenue for calendar years 2011 thru 2013.

- 14. Any and all documents including cost studies, budget analysis or management reports relating to the years 2011 to the present that concern segregating your costs in Massachusetts between the call set up function that is recovered by the surcharge and the costs that are recovered by any per minute or other charges.*

No such documents exist.

- 15. Any and all documents including reports that show completed and billed minutes by facility that would cover Massachusetts for the fiscal years of 2011, 2012, 2013 and 2014.*

Respondent reiterates its General Objections and further objects to the tedious level of detail associated with this request. Notwithstanding its objections, attached as Exhibit D-15 are reports for the years 2011 thru 2014 (to March only) showing usage minutes in MA by major jurisdictional and call-type categories.

- 16. A copy of your most recent tariff filing with the Massachusetts DTC. If this is available online please provide the web address instead.*

Attached as Exhibit D-16 is Respondent's tariff on file with the MA DTC.

- 17. Any and all documented communications with Massachusetts governmental agencies and/or private contractors that manage or supervise prison facilities in Massachusetts concerning the provision of inmate calling services in the Massachusetts facilities listed in response to No.1.*

Respondent reiterates its General Objections. Respondent further objects to Petitioners attempt to obtain trade secret and/or competitively strategic communications, the parties to which had a presumption of confidentiality as and when such communication occurred. Respondent further objects to the burdensome nature of gathering emails and other correspondence over a three year period, none of which is likely to provide one shred of meaningful data regarding the costs of providing inmate telephone services in MA. Petitioners would need to establish a protective order, reasonably satisfactory to Respondent, by and among the parties to this proceeding as well as obtain specific consent from Hampshire County before confidential communications could be released.

- 18. Any and all documented communications concerning your lobbying activities or other governmental advocacy work related to your provision of inmate calling services for the years 2011, 2012, 2013 and 2014.*

No such documents exist.

- 19. Any and all documents including contracts and addendums concerning agreements with entities that conduct billing services for your inmate calling operations in Massachusetts.*

Respondent reiterates its General Objections. Respondent has a contract with Merchant Clearinghouse for the processing of collect call billings through local exchange carriers. This contract is confidential between the parties and Petitioners would need to establish a protective order, reasonably satisfactory to Respondent, by and among the parties to this proceeding as well as obtain specific consent from MCH before a copy of this contract could be released.

- 20. Your promotional and marketing materials concerning any and all aspects of your provision of inmate calling services from 2011 to the present.*

Respondent reiterates its General Objections and further objects to the broad nature and scope of this request combined with the evolutionary nature of marketing materials in general which have changed numerous times over the subject period. Moreover, since Respondent has not secured a single contract in MA during the subject period, its promotional and marketing materials are arguably moot. Petitioners can obtain reasonable facsimile of such materials through Respondents website at www.icsolutions.com.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ken Dawson", written over a horizontal line.

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